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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/725,954	12/02/2003	Jeffrey L. Sands	60246-296	2882

26096 7590 11/02/2006

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EXAMINER

KUMAR, RAKESH

ART UNIT	PAPER NUMBER
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3654

DATE MAILED: 11/02/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/725,954	Applicant(s) SANDS ET AL.	
	Examiner Rakesh Kumar	Art Unit 3654	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 August 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 August 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08/25/2006</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, as disclosed in claim 19, the transferring of the item from the automated freezer to a grill must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,4-9 and 18-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufman et al. (U.S. Patent Number 5,33,5,816) in view of Cihanek (U.S. Patent Number 5,813,569).

Referring to claim 1. Kaufman discloses an apparatus for medication delivery system wherein a removable cartridge (104; Figure 11) for storing at least one item (102); and a platform (122) moveable within said removable cartridge (104) in response to a request for said at least one item (input from 30, 58,56; Figure 13A).

Kaufman does not specifically disclose the apparatus as being a freezer.

Cihanek discloses a point of sale merchandiser Figure 3), which functions as a refrigerator to keep perishable items in the dispenser.

It would have been obvious to one of ordinary skill in the art at the time the invention was made, to modify the teachings of Kaufman to include a freezer as taught by Cihanek to keep perishable items in the dispenser because it would reduce waste.

Regarding claims 4 and 7, Kaufman teaches of an apparatus including a removal device (138) and an exit opening (132), and said removal device (138) removes said at least one item (136) from the dispenser through said exit opening (132) in response to said request. Wherein said removal device is pivotal (Figure 7 and 8).

Regarding claim 5, Kaufman teaches of an apparatus wherein said platform (122) raises after said at least one item (102) exits said dispenser through said exit opening (132).

Regarding claim 6, Kaufman teaches of an apparatus further including a sensor input (Figure 12), and said removal device removes (138) said at least one item from said automated dispenser through said exit opening in response to said request when said sensor detects (input from user) said at least one item.

Regarding claims 8 and 20, Kaufman discloses an apparatus further including a controller (22) associated with the automated dispenser and a POS device, and wherein said request comprises a signal sent by said POS device (See Figure 12).

Regarding claim 9, Kaufman discloses an apparatus comprising a dispensing cartridge with a rectangular inner profile.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Kaufman in view of Cihanek and include a circular inner profile of the dispensing cartridge because a circular could carry circular objects.

Regarding claim 18, regarding method claim 18, although Kaufman in view of Cihanek do not explicitly disclose a method of using his apparatus, the method steps recited in the claim would inherently be performed when using the apparatus of Kaufman in view of Cihanek in its usual and expected fashion.

Referring to claim 19, it would have been obvious to one of ordinary skill in the art at the time the invention was made to remove the article from the dispenser as disclosed above and transfer the article to a grill.

Claims 2, 3, 10 and 13-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufman in view of Cihanek as applied to claim 1 above, and further in view of Tansley (U.S. Patent Number 2,315,827).

Referring to claims 2 and 13-17. Tansley discloses a cup dispenser including a retention mechanism (31) to retain a portion of said at least one item (cup that is engaged) in the dispenser when said cartridge (10) is removed from the dispenser.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Kaufman in view of Cihanek and include a retention mechanism as taught by Tansley such that least one item is retained in the dispenser as the dispenser cartridge is replaced because the dispenser could still be used as the cartridge is being changed.

Regarding claim 3, Tansley further includes a buffer (36) defining an inner passage, said buffer (36) having a lower end (12) and said retention mechanism (31), wherein said cartridge (10) further includes an upper end (11), and said upper end (11) of said cartridge (10) is received in said lower end (12) of said buffer (36).

Regarding claim 10, Tansley discloses a cup dispenser including a dispenser cartridge 10.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Kaufman in view of Cihanek and include a circular cartridge as taught by Tansley. It would have been further obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Kaufman in view of Cihanek in view of Tansley such that the cartridge is composed of two equal halves each comprising a half circle opening at the bottom end of the half, such that when the two halves are joined they comprise a full circular opening at the bottom end of the cartridge.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufman in view of Cihanek in view of Tansley as applied to claim 10 above, and further in view of Nigro (U.S. Patent Number 3,998,238).

Regarding claims 11 and 12, Nigro discloses a cup dispenser including a dispenser cartridge 10 wherein said platform (40) has a platform diameter and said

circular cutout (opening of container 12) has a cutout diameter, and said cutout diameter is greater than said platform diameter.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the teachings of Kaufman in view of Cihanek in view of Tansley and include a circular cutout diameter greater than the cartridge platform diameter as taught by Nigro because the platform could easily move within the cartridge.

Response to Arguments

Applicant's arguments filed 08/14/2006 have been fully considered but they are not persuasive.

Referring to claims 1-18, the applicant argues "There is no reason to refrigerate medicines that do not need to be refrigerated, and unnecessarily refrigerating certain medicines could have negative effects," thus in the view of the applicant it is not obvious to combine the teachings of Kaufman in view of Cihanek. In the view of the Office it understood that it is a common practice to seal packages and store packages in cold storage areas in order extend shelf life of the products to be dispensed. In the instant reference pertaining to the teaching of Kaufman the medications packets are stored in the housing wherein the housing may be subjected to temperature conditions detrimental to shelf life of these packages. It is thus, considered by the office to be obvious for one of ordinary skilled in the art at the time the invention was made to have included a refrigeration mechanism as taught by Cihanek to maintain the temperature of

the content regardless of the environmental conditions outside the housing and resulting in an extended shelf life of the medications packets.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Bleeker (US 5,167,345) discloses an article dispenser mechanism.

Covington (US 4,142,863) discloses a cartridge holding articles.

Gottselig (US 6,098,836) disclose a cartridge with two cover faces.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

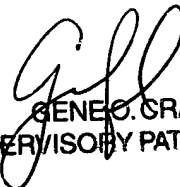
A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rakesh Kumar whose telephone number is (517) 272-8314. The examiner can normally be reached on 8:00AM - 4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kathy Matecki can be reached on (571) 272-6951. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

RK
October 27, 2006


GENE C. CRAWFORD
SUPERVISORY PATENT EXAMINER